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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 12

Application Number: 09/491,094

Filing Date: January 24, 2000

Appellant(s): HEATH ET AL.

Frank J. Catalano
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 21, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-3 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,186,347 FREEMAN et al. 2-1993
4,953,737 MEYERS 9-1990

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Meyers.

Freeman discloses a lid having a clamp portion and an upwardly extending discharge spout, the discharge spout being entirely above the clamp portion and having a truncation in the shape of a horizontal plane tangent to a bottom wall of a horizontal cylinder and a base diameter equal to a top inside diameter of said clamp. The inner wall of the clamp is seen in

figures 2 and 5 to engage the upper, innermost portion of the cup rim. The inner wall of the clamp and an inner wall of the spout do not smoothly converge to a discharge port of the spout.

Meyers teaches a lid having an annular clamp 50 adapted to be seated on a cup rim and an upwardly extending discharge spout, an inner wall of the clamp and an inner wall of the discharge spout smoothly converge to a discharge port of the discharge spout.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an inner wall of the clamp and an inner wall of the discharge spout smoothly converging to a discharge port of the spout as taught by Meyers to the lid of Freeman by moving the inner wall of the clamp radially inwardly until such convergence is met. Doing so would allow complete drainage and a smooth flow of fluid from the lid upon attachment to a liquid filled container.

Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the inner wall axially, downwardly to ensure it grips as significant portion of the inner wall of the associated cup rim. Doing so would ensure a tight seal between the cup lid and the associated container rim.

(11) Response to Argument

Appellant's arguments of the rejection applied to group A indicate appellant did not clearly understand the rejection set forth. The rejection of the final Office action modifies the lid of Freeman in view of Meyers by moving the inner wall of the lid clamp radially inwardly to form a smooth transition with an inner wall of the lid spout. In response to appellant's arguments in the after final amendment that the clamp could not grip an inner wall of an associated, but not claimed cup, the advisory action submits it would have been obvious to additionally extend the inner wall of the clamp to allow it to grip an associated cup rim. Thus, the first figure on page 7

and the figure on page 8 of appellant's brief do not accurately reflect the combination of Freeman in view of Meyers.

Appellant's arguments are misplaced regarding the combination of Freeman and Meyers as applied to Groups B and C. The base reference, Freeman, teaches the claimed cup lid, including "the spout having a truncation in the shape of a horizontal plane tangent to a bottom wall of a horizontal cylinder and a base diameter equal to a top inside diameter of said clamp", except for the "inner wall of said clamp and an inner wall of said spout converging smoothly to said discharge port". The patent to Meyers teaches the claimed limitation of an inner wall of a clamp and an inner wall of a spout converging smoothly to a discharge port of the spout.

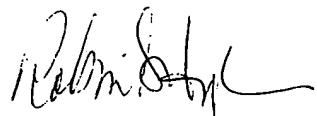
The rejection set forth states it would have been obvious to apply the teaching of an inner wall of a lid clamp and an inner wall of a spout converging smoothly to the discharge port of the spout, i.e., modifying the spout of Freeman in view of the teaching of Meyers.

The second figure on page 7 of appellant's brief does not accurately reflect the rejection set forth. It has not been suggested to apply the clamp and spout wall of Meyers to the lid of Freeman. The rejection is to merely provide a smooth transition between the inner wall of the clamp and the inner wall of the spout of Freeman.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3727

Respectfully submitted,



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May 15, 2002

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